

ORIGINAL**FILED**

NOV 7 2013

**U.S. COURT OF
FEDERAL CLAIMS**

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

1. ANDERSON, MICHAEL
2. HILL, BRIAN
3. MASON, BROOKS
4. MURPHY, WILLIAM
5. THORNTON, JOSEPH

Plaintiffs,

v.

THE UNITED STATES

Defendant.

CASE No. _____
Complaint**13-884 C****COMPLAINT**

1. The plaintiffs are employees of the defendant United States Government employed as GS-12-2210 Information Technology Specialists and/or Band III Series 2210 Information Technology Specialist by the National Oceanic and Atmospheric Administration ("NOAA") (part of the Department of Commerce) at Wallops Command and Data Acquisition Station. Plaintiffs bring this action on behalf of themselves and other employees similarly situated for a declaratory judgment, backpay and other relief, pursuant to 29 U.S.C. Section 216(b), 28 U.S.C. Section 1346(a)(2) and 28 U.S.C. Sections 1491, 2201 and 2202, 5 U.S.C. Section 5596, and the overtime provisions of Title 5 of the U.S. Code, 5 U.S.C. §§ 5541, et. seq., to remedy the defendant's willful and unlawful violations of federal law complained of herein.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. Section 1346(a)(2), 28 U.S.C. Section 1331, 28 U.S.C. Section 1491, and 29 U.S.C. Section 216(b). Venue is proper pursuant to 28 U.S.C. Section 1402.

PARTIES

3. Plaintiff Michael Anderson, a resident of Onancock, Virginia, is employed as a GS-12-2210 Information Technology Specialist and/or Band III Series 2210 Information Technology Specialist by the National Oceanic and Atmospheric Administration ("NOAA") at Wallops Command and Data Acquisition Station.

4. Additional persons who are plaintiffs in this action are also current or former employees of the defendant employed in Information Technology Specialists and/or technician and related capacities at NOAA Wallops Command and Data Acquisition Station and they have given their written consent to be party plaintiffs in this action pursuant to 29 U.S.C. Section 216(b). Such written consents are appended to this complaint. These written consent forms set forth each plaintiff's name, home address, and employing agency.

5. The plaintiffs in this action are "employees" within the meaning of the Fair Labor Standards Act (FLSA), 29 U.S.C. Section 203(e)(1).

6. The defendant Government of the United States is, and at all material times has been, a "public agency" and "employer" within the meaning of the FLSA, 29 U.S.C. Section 203(x) and Section 203(d). Defendant employs the plaintiffs and other employees in similar activities and has its principal place of business in Washington, D.C.

FACTS

7. Section 7(a) of the FLSA (29 U.S.C. Section 207(a)) provides that an employer shall compensate its employees at a rate not less than one and one-half times their regular rate for each hour employed in excess of 40 hours per week. In addition, section 551.501 of Part 5 of the Code of Federal Regulations, 5 CFR § 551.501, provides that federal agency employers such as the NOAA, shall compensate their employees at a rate of not less than one and one-half times the employees' regular rate of pay for all hours of work in excess of 8 in a day and/or 40 in a work week. At all times material herein, the plaintiffs and other employees similarly situated have been entitled to FLSA overtime pay for all hours of work in excess of 8 in a day and/or 40 in a work week.

8. At all times material herein, the plaintiffs have worked at the GS-12 and/or Band III pay grade in the GS-2210 Information Technology Specialist occupation series. At all times material herein, while working in this position the plaintiffs have worked hours in excess of forty (40) hours per week and/or eight (8) hours a day.

9. During the time the plaintiffs have worked in excess of forty (40) hours per week and/or eight (8) hours a day, defendant United States has failed and refused to provide the plaintiffs with the rights and protections provided under the FLSA, including overtime at a rate of one and one-half times their regular rates of pay for all hours plaintiffs have worked in excess of the hourly standards set forth in 29 U.S.C. §207 and 5 CFR § 551.501.

10. By failing and refusing to pay the plaintiffs and other employees similarly situated the overtime pay required under law, the defendant has violated, and is continuing to violate in a willful and intentional manner, the provisions of the FLSA. As a

consequence, at all times material herein, the plaintiffs have been unlawfully deprived of overtime compensation and other relief for the maximum statutory period allowed under federal law.

11. As a result of the defendant's willful and purposeful violations of the FLSA and Title 5, there have become due and owing to the plaintiffs various amounts that have not yet been precisely determined. The employment and work records for the plaintiffs are in the exclusive possession, custody and control of defendant and its public agencies and the plaintiffs are unable to state at this time the exact amounts owing to him. Defendant and its public agencies are under a duty imposed by the Government Accounting Office retention schedule, the FLSA (29 U.S.C. §211 (c)) and various statutory and regulatory provisions to maintain and preserve payroll and other employment records with respect to the plaintiffs and other employees similarly situated from which the amounts of defendant's liability can be ascertained.

12. Pursuant to 29 U.S.C. § 216(b), the plaintiffs are entitled to recover liquidated damages in an amount equal to his back pay damages for the defendant's failure to pay overtime compensation.

13. Pursuant to the Back Pay Act, 5 U.S.C. § 5596, the plaintiffs are entitled to recover interest on his back pay damages for the defendant's failure to pay him overtime compensation.

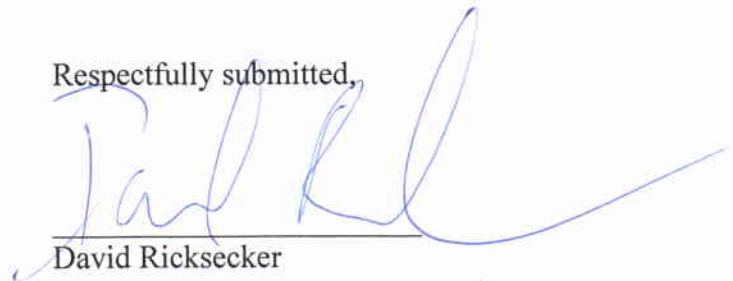
14. The Plaintiffs are entitled to recover attorneys' fees and costs under 29 U.S.C. § 216(b), the Back Pay Act, 5 U.S.C. § 5596 as well as other applicable laws and regulations.

WHEREFORE, the plaintiffs, on their own behalf and on behalf of others similarly situated, pray that this Court:

- (a) Enter judgment declaring that the defendant has willfully and wrongfully violated its statutory obligations, and deprived the plaintiffs of their rights;
- (b) Order a complete and accurate accounting of all the compensation to which the plaintiffs are entitled;
- (c) Award the plaintiffs monetary liquidated damages equal to his unpaid compensation, plus interest;
- (d) Award plaintiffs reasonable attorneys' fees to be paid by the defendant, and the costs and disbursements of this action; and
- (e) Grant such other relief as may be just and proper.

Dated: November 7, 2013

Respectfully submitted,



David Ricksecker
WOODLEY & MCGILLIVARY
1101 Vermont Avenue, N.W.
Suite 1000
Washington, D.C. 20005
(202) 833-8855 (telephone)
(202) 452-1090 (facsimile)

CONSENT TO BECOME PLAINTIFF AND RETAINER AGREEMENT
National Oceanic and Atmospheric Administration (NOAA)

REQUEST TO BECOME PARTY PLAINTIFF


Print clearly, or type the following information:

NAME Anderson Michael John
 Last First Middle

HOME ADDRESS 61 Hill Street
 Address

Onancock VA. 23417
 City State Zip Code

PHONE (home) 757-789-5222 (cell) 757-710-5107

SIGNATURE  Continue on Reverse

CONSENT TO BECOME PLAINTIFF AND RETAINER AGREEMENT
National Oceanic and Atmospheric Administration (NOAA)

Print clearly, or type the following information:

NAME Hill Brian Kelley
Last First Middle

HOME ADDRESS 24224 Maxwell Street
Address
Parksley VA 23421
City State Zip Code

PHONE (home) 757 665 4383 (work) 757 824 7432

SIGNATURE

Brian K. Hill

Continue on Reverse

CONSENT TO BECOME PLAINTIFF AND RETAINER AGREEMENT
National Oceanic and Atmospheric Administration (NOAA)

REQUEST TO BECOME PARTY PLAINTIFF

Print clearly, or type the following information:

NAME MASON Brooks D
Last First Middle

HOME ADDRESS P.O. Box 69
Address

WATTSVILLE VA 23483
City State Zip Code

PHONE (home) 757.824-4856 (work) 757.824-7476

SIGNATURE Brooks D Mason Continue on Reverse

CONSENT TO BECOME PLAINTIFF AND RETAINER AGREEMENT
National Oceanic and Atmospheric Administration (NOAA)

REQUEST TO BECOME PARTY PLAINTIFF

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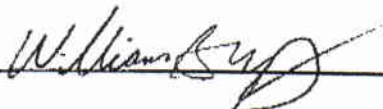
NAME MURPHY WILLIAM BRUCE
Last First Middle

HOME ADDRESS 22382 ACCOMAC ROAD
Address

GREENBUSH Va. 23357
City State Zip Code

PHONE (home) 757 894 2510 (work) 757 824 7434

SIGNATURE



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CONSENT TO BECOME PLAINTIFF AND RETAINER AGREEMENT
National Oceanic and Atmospheric Administration (NOAA)

REQUEST TO BECOME PARTY PLAINTIFF

Print clearly, or type the following information:

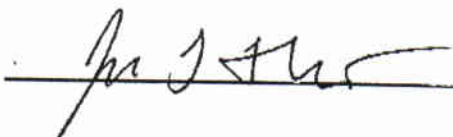
NAME THORNTON JOSEPH TRAVIS
Last First Middle

HOME ADDRESS 5419 WOODLAND DR
Address

CHINCOTEAGUS VA 23336
City State Zip Code

PHONE (home) 757-336-6944 (work) 757-824-7450

SIGNATURE



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